IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/02/2004

CORAM

THE HONOURABLE Mr. JUSTICE P.D.DINAKARAN

Writ Petition No.12814 of 2003

E.Pachiappan .. Petitioner

-Vs-

1. The District Collector
and Chairman,
District Level Vigilance
Committee,
Chennai District,
Collector's Office,
Chennai-1.

2. State Bank of India,
rep. by its Deputy General
Manager/Personnel Officer,
Personnel Section,
Zonal Office,
86, Rajaji Salai,
Chennai-1. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
for the issuance of a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.Ramadoss for
Mr.M.Suresh Kumar

For Respondents : Mr.K.Mahendran,
Spl. Govt. Pleader-R1.
Mr.P.Sukumar-R2.

:O R D E R

By proceedings of the first respondent dated 11.4.2002, it was concluded that the petitioner does not belong to Hindu Adi-dravida (scheduled caste) community, of course, after issuing a show cause notice dated 25.11.1997 as to why the community certificate relied upon by the petitioner that he belongs to the Hindu Adi-dravida community should not be cancelled, and conducting an enquiry. Challenging the same, the petitioner has filed the

above writ petition seeking a writ of Certiorarified Mandamus to call for the records relating to the proceedings bearing D.Dis.P4/9006/97 dated 11.4.2002 of the first respondent, quash the same and consequently to direct the second respondent to treat the petitioner's appointment as Messenger under general category.

2. According to Mr.P.Sukumar, learned counsel appearing for the second respondent, the second respondent-Bank had, even at the time of appointing the petitioner, verified the communal status of the petitioner only based on the secondary school cumulative records, as he never produced the community certificate before the second respondent. Only under such circumstances, the second respondent-Bank had requested the first respondent to verify the communal status of the petitioner.

3. Mr.Ramadoss, learned counsel appearing for the petitioner, is not disputing the fact that the petitioner did not produce the community certificate to show that he belongs to Hindu Adi-dravida either before the second respondent-management at the time of appointment or before the first respondent during the personal hearing on 2.4.2002 or before this Court in the above writ proceedings.

4. The only submission made on behalf of the petitioner is that even though the petitioner could not produce the community certificate to prove that he belongs to Hindu Adi-dravida, the second respondent should be directed to treat the appointment of the petitioner as Messenger as the one made under the general category by quashing the impugned proceedings of the first respondent dated 11.4.2002.

5. I am unable to appreciate the above contention of the learned counsel for the petitioner, in view of the decision of the Larger Bench of the Apex Court in STATE OF MAHARASHTRA Vs. MILIND reported in (200 1) 1 SCC 4, wherein the Apex Court had held as follows:
" ... States have no power to amend Presidential Orders. Consequently, a party in power or the Government of the day in a State is relieved from the pressure or burden of tinkering with the Presidential Orders either to gain popularity or secure votes. Number of persons in order to gain advantage in securing admissions in educational institutions and employment in State services have been claiming as belong to either Scheduled Castes or Scheduled Tribes depriving genuine and needy persons belonging to Scheduled Castes and Scheduled Tribes covered by the Presidential Orders, defeating and frustrating to a large extent the very object of protective discrimination given to such people based on their educational and social backwardness. Courts cannot and should not expand jurisdiction to deal with the question as to whether a particular caste, sub-caste; a group or part of tribe or sub-tribe is included in any one of the entries mentioned in the Presidential Orders issued under Articles 341 and 342 particularly so when in clause (2) of the said article, it is expressly stated that the said Orders cannot be amended or varied except by law made by Parliament."

6. In the instant case, even though the petitioner claims that he belongs to Hindu Adi-dravida, he did not prove the same either by examining any of his relatives or by producing any documentary evidence before the first respondent at the time of personal hearing on 2.4.2002 , in which he had admittedly participated. The request of the petitioner that his appointment should be treated as the one made under general category further goes to show that he has no sufficient proof to prove his communal status that he belongs to Hindu Adi-dravida. In such circumstances, having been appointed under the quota allotted to schedule caste community, the petitioner is not entitled to seek a direction from this Court to the second respondent to consider his appointment as the one made under general category. Since it is not in dispute that the petitioner was given a fair and reasonable opportunity and he failed to substantiate his case that be belongs to Hindu Adi-dravida, I do not find any good and sufficient reason to interfere with the impugned proceedings of the first respondent dated 11.4.200 2 and consequently, the writ petition fails and the same is dismissed. No costs.

Index : Yes
Internet: Yes

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To,

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and Chairman,
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Chennai-1.

2. The Deputy General
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